

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

TRAVIS JUSTIN CUELLAR,

Plaintiff,

v.

BROOK BERGMAN, Madera County District  
Attorney,

Defendant.

Case No. 1:20-cv-00579-NONE-SKO

ORDER DIRECTING CLERK'S OFFICE  
TO REDESIGNATE CIVIL RIGHTS  
ACTION (440) AS A PETITION FOR WRIT  
OF HABEAS CORPUS (530)

(Doc. 1)

Plaintiff Travis Justin Cuellar, a prisoner proceeding pro se, filed a civil action on April 23, 2020. (Doc. 1.) Upon review of the complaint, Plaintiff's allegations relate entirely to his conviction in a state court criminal case, including the prosecutor's alleged facilitating of "eavesdropping by sending a prosecuting agent to eav[e]sdrop on a private attorney-client meeting in an in custody holding area in the Madera Superior Courthouse." (*Id.* at 5.) Plaintiff alleges that this eavesdropping resulted in Defendant "obtain[ing] incriminating information, resulting in a conviction of Plaintiff." (*Id.*) Further, Plaintiff does not request damages, but instead requests that the Court "consider the plaintiff's sentence time served based on the constitutional violations suffered" and "reverse conviction and/or dismiss charges." (*Id.*) Thus, the action appears to be more appropriately designated as a petition for habeas corpus under 28 U.S.C. § 2254, rather than a civil rights action under 42 U.S.C. § 1983.

1 Accordingly, the Court HEREBY ORDERS the Clerk of Court to re-designate this action  
2 from 440 (other civil rights) to 530 (habeas corpus).

3  
4 IT IS SO ORDERED.

5 Dated: April 28, 2020

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE